UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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GCP

Mailed: September 30, 2015

Opposition No. 91223065

PN, LLC

v.

C2 Management Group LLC

By the Trademark Trial and Appeal Board:

This proceeding now comes before the Board for consideration of Applicant's motion (filed August 6, 2015) to dismiss the opposition for lack of jurisdiction because Opposer did not demonstrate good cause for its request to extend its time to oppose Applicant's involved application.[1] The motion is fully briefed.

As background, Applicant seeks to register the mark PN and design, as displayed below, for "Computer services, namely, providing an interactive web site featuring technology that allows users to consolidate and manage social networks, accounts, and connections to existing and emerging application programming interfaces (APIs)" in International Class 42.[2]

[1] Opposer's change of correspondence address filed on August 25, 2015 is noted. Board records have been updated accordingly.
[2] Application Serial No. 86256711, filed on April 18, 2014, based on an allegation of a *bona fide* intention to use the mark in commerce under Section 1(b) of the Trademark Act.

The record demonstrates that Applicant's involved application was published for opposition on April 7, 2015 making any potential filing of a notice of opposition due by May 7, 2015. The record further demonstrates that on May 4, 2015 Opposer filed a request to extend its time to oppose Applicant's application by ninety days on the ground that Opposer needed additional time to confer with its counsel regarding the potential opposition. On May 4, 2015, the Board granted Opposer's request for a 90-day extension thereby extending Opposer's time to file an opposition until August 5, 2015. [3]

On August 1, 2015, Opposer filed a notice of opposition opposing registration of Applicant's mark solely on the ground of likelihood of confusion under Section 2(d) of the Trademark Act.

Decision

Trademark Rule 2.102(c) (as amended, effective February 27, 1983, by a final rule notice published in the *Federal Register* on January 27, 1983 at 48 FR 3972) embodies a delegation of authority from the Commissioner to the Board to grant, *ex parte*, extensions of time to oppose. That, in a given case, the Board has exercised this delegated *ex parte* authority by granting an extension of time to oppose does not preclude an applicant from later raising, in an *inter partes* opposition proceeding, as is the case here, the correctness of that exercise of delegated authority. And the

[3] In its motion papers, Applicant contends that it never received a copy of the Board's order granting Opposer's request to extend its time to oppose Applicant's involved application. While this is regrettable, Applicant's failure to receive the copy of the Board order is inconsequential to our determination herein.

appropriate means for raising such an issue is a motion to dismiss the opposition for lack of jurisdiction.

Trademark Rule 2.102(c)(1) provides as follows:

> (c) The time for filing an opposition shall not be extended beyond 180 days from the date of publication. Any request to extend the time for filing an opposition must be filed before thirty days have expired from the date of publication or before the expiration of a previously granted extension of time, as appropriate. Requests to extend the time for filing an opposition must be filed as follows:
> (1) A person may file a first request for either a thirty-day extension of time, which will be granted upon request, or ***a ninety-day extension of time, which will be granted only for good cause shown***.

(emphasis added).

As noted above, Opposer filed its request for an extension of time within thirty days from the date of publication of Applicant's involved application. The record demonstrates that Opposer filed its request to extend its time to oppose by employing the Board's electronic filing system, i.e., ESTTA. When filing a request to extend time that exceeds sixty days from the date of publication, as is the case here, the ESTTA filing system allows the potential opposer to choose from one of the following pre-populated grounds as support for its extension request:

Cause for Extension Request

You have requested an extension (or extensions) of time to oppose totalling more than 60 days from the date of publication. Such an extension may only be granted upon a showing of good cause.

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Good cause is established for this request because:

The potential opposer needs additional time to investigate the claim
The potential opposer needs additional time to confer with counsel
The potential opposer is engaged in settlement discussions with applicant
The potential opposer needs additional time to seek counsel to represent it in this matter
Other Please explain briefly in the space provided below

By allowing a potential opposer to choose from one of the foregoing grounds for extension, the Board has predetermined that any one of these identified grounds constitutes good cause for an initial extension request to oppose that exceeds sixty days from publication. Indeed, by long-standing practice, a simple statement that the potential opposer needs additional time to investigate the claim or to confer with counsel is considered by the Board as establishing good cause for an extension of time to oppose. Extensions of time to oppose are limited in time (not to exceed an aggregate of 180 days from publication) and the nature of the process, including the volume of extension requests filed each year, does not lend itself to an in-depth inquiry into the basis for each individual extension. While the allegations in a request for extension of time to oppose must be truthful, Applicant has offered no reason to doubt Opposer's statement in this case, other than its subjective belief that the actual basis for the extension of time requested was for Opposer to create a new business and in order to provide Opposer time to file its own trademark application for the mark PN. *See* 4 TTABUVE at p.5 fn. 2. Applicant, however, has not submitted any evidence to substantiate this subjective belief.

Because Opposer chose a ground that the Board has predetermined to constitute good cause for an initial extension request that exceeds sixty days and since Applicant has failed to submit any evidence that would demonstrate that Opposer did not actually require the additional time to confer with its counsel or that Opposer sought the additional time for reasons other than conferring with its

counsel, the Board finds that Opposer has demonstrated sufficient good cause for its extension request.

Accordingly, Applicant's motion to dismiss the opposition on the ground of lack of jurisdiction because Opposer did not demonstrate good cause for its request to extend its time to oppose Applicant's involved application is hereby **DENIED**.[4]

As a final matter, the Board has *sua sponte* reviewed Opposer's pleading and finds that Opposer has adequately pleaded its standing, as well as its ground for opposition. In view thereof, proceedings are hereby **RESUMED** and Applicant is allowed until **October 20, 2015** in which to file and serve its answer to the notice of opposition.

Remaining trial dates are reset as follows:

Deadline for Discovery Conference	**11/19/2015**
Discovery Opens	**11/19/2015**
Initial Disclosures Due	**12/19/2015**
Expert Disclosures Due	**4/17/2016**
Discovery Closes	**5/17/2016**
Plaintiff's Pretrial Disclosures Due	**7/1/2016**
Plaintiff's 30-day Trial Period Ends	**8/15/2016**
Defendant's Pretrial Disclosures Due	**8/30/2016**
Defendant's 30-day Trial Period Ends	**10/14/2016**
Plaintiff's Rebuttal Disclosures Due	**10/29/2016**
Plaintiff's 15-day Rebuttal Period Ends	**11/28/2016**

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

[4] To the extent Applicant's motion also seeks reconsideration of the Board's decision to grant Opposer an extension of time to oppose Applicant's involved application, said request for reconsideration is also **DENIED** for the reasons set forth in this order.

Briefs shall be filed in accordance with Trademarks Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.